

FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

RICKY EADS, R.N.,
RESPONDENT.

:
:
:
:
:

FINAL DECISION
AND ORDER
LS9310112NUR

The State of Wisconsin, Board of Nursing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Board of Nursing.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs, and mail a copy thereof to respondent or his or her representative, within 15 days of this decision.

Respondent or his or her representative shall mail any objections to the affidavit of costs filed pursuant to the foregoing paragraph within 30 days of this decision, and mail a copy thereof to the Division of Enforcement and Administrative Law Judge.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 28 day of January, 1994.

Jacqueline Johnson RN MS

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	PROPOSED DECISION
	:	Case No. LS-9310112-NUR
RICKY EADS, R.N.,	:	(DOE case number 93 NUR 149)
RESPONDENT.	:	

PARTIES

The parties in this matter under § 227.44, Stats. and § RL 2.037, Wis. Adm. Code, and for purposes of review under § 227.53, Stats. are:

Complainant:

Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708

Respondent:

Ricky Eads
1925 West Timber Ridge Lane #1209
Oak Creek, WI 53154

Disciplinary Authority:

Board of Nursing
1400 East Washington Ave.
Madison, WI 53708

FINDINGS OF FACT

1. Respondent Ricky Eads is a registered nurse licensed in the state of Wisconsin, under license number 111968, originally licensed on December 9, 1992.
2. On July 14, 1993, the South Dakota Board of Nursing imposed discipline against Mr. Eads' license to practice as a nurse in South Dakota, based upon allegations of sexual conduct with a patient undergoing psychological and psychiatric treatment.

CONCLUSIONS OF LAW

I. The Board of Nursing is the legal authority responsible for issuing and controlling credentials for registered nurses, under ch. 441, Stats. The Board of Nursing has jurisdiction over Mr. Eads' nursing license.

II. The Board of Nursing has personal jurisdiction over the Respondent under § 801.04 (2), Stats., based on his receiving notice of the proceeding.

III. The Board of Nursing has jurisdiction over the subject-matter of a complaint alleging unprofessional conduct, under § 15.08(5)(c), Stats, §441.07, Stats, and ch. N 7, Wis. Admin. Code.

IV. The Respondent, Ricky Eads, is in default under § 2.14, Wis. Admin. Code, which means that the Board may make findings of fact and enter a disciplinary order on the basis of the complaint alone.

V. By having disciplinary action through final board adjudication taken against his nursing license in another jurisdiction, Mr. Eads has violated §N7.04(7), Wis. Admin. Code.

VI. A violation of §N7.04(7) constitutes misconduct or unprofessional conduct under §441.07(a)(d), Stats., and discipline is appropriate, under §441, Stats.

ORDER

THEREFORE, IT IS ORDERED that the license previously granted to the respondent, Ricky Eads, to practice as a registered nurse in Wisconsin be revoked, effective on the date this order is signed on behalf of the Board of Nursing.

IT IS FURTHER ORDERED that Ricky Eads pay the costs of this proceeding, as authorized by § 440.22(2), Stats. and § RL 2.18, Wis. Admin. Code, with payment of costs to be a precondition for consideration of any application for reinstatement.

OPINION

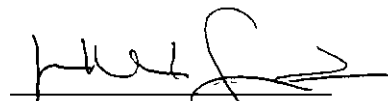
The disciplinary complaint in this matter alleged that on July 14, 1993 the South Dakota Board of Nursing imposed discipline on a nursing license issued to the respondent, Ricky Eads. The order included an indefinite suspension with a provision that Mr. Eads could be reinstated after no less than one year, upon completion of an extensive list of rehabilitative conditions, and that the first three years of his reinstatement would be probationary, with another extensive list of conditions. This action was agreed to by Mr. Eads in a stipulation, following the filing of a complaint which alleged sexual exploitation of a mental health patient.

Mr. Eads did not file an answer and he did not appear at the scheduled hearing. He is therefore in default, and a judgment may be entered based solely on the allegations in the complaint. Mr. Eads violated §N7.04(7), Wis. Admin. Code by having disciplinary action through final board adjudication taken against his nursing license in another jurisdiction. This violation constitutes misconduct or unprofessional conduct, and discipline is appropriate.

Although the discipline imposed in South Dakota was technically a suspension, the suspension was indefinite, with the opportunity to apply after at least one year for reinstatement. Revocation in Wisconsin is appropriate for two reasons. First, since §441.07(2) permits the board to reinstate a revoked license upon application after at least one year, revocation here is virtually identical to South Dakota's indefinite suspension. Second, Mr. Eads' silence in this proceeding removes any opportunity for this tribunal or the board to evaluate him and his progress in the past four months toward meeting the rehabilitative conditions imposed in South Dakota.

The assessment of costs against a disciplined professional is authorized by § 440.22(2), Stats. and § RL 2.18, Wis. Admin. Code, but neither the statute nor the rule clearly indicates the circumstances in which costs are to be imposed. I prefer to use costs as an incentive to encourage respondents to cooperate with the process, and thus to impose costs only if the respondent is uncooperative or dilatory. Mr. Eads failed to respond to the complaint, and he failed to appear at the hearing. Although a default hearing based on the imposition of discipline in another jurisdiction is not an expensive procedure, nevertheless a response from Mr. Eads might have led to a stipulated settlement or some other time-saving arrangement. His lack of cooperation and disregard for these proceedings make an order for costs appropriate.

Dated November 23, 1993.



John N. Schweitzer
Administrative Law Judge
Department of Regulation and Licensing

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN BOARD OF NURSING

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

JANUARY 31, 1994.

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST : AFFIDAVIT OF COSTS OF
: OFFICE OF BOARD LEGAL SERVICES
RICKY EADS, R.N., : Case No. LS-9310112-NUR
RESPONDENT. :

John N. Schweitzer affirms the following before a notary public for use in this action, subject to the penalties for perjury in sec. 946.31, Wis. Stats.:

1. I am an attorney licensed to practice law in the State of Wisconsin, and am employed by the Wisconsin Department of Regulation and Licensing, Office of Board Legal Services.
2. In the course of my employment, I was assigned as the administrative law judge in the above-captioned matter.
3. The expenses for the Office of Board Legal Services are set out below:

a. Administrative Law Judge Expense @ \$23.99/hour.


Conduct hearing, 11/23/93
1/2 hr.

= \$11.99

Write proposed decision
1 1/2 hrs.

= \$35.99

Total costs for Office of Board Legal Services = \$47.98



John N. Schweitzer
Administrative Law Judge

Sworn to and signed before me this 9th day of March, 1994.

Louella J. Jurek, Notary Public, State of Wisconsin.

My commission Expires 11-6-94.

INVESTIGATOR EXPENSE FOR JOAN GAMMETER

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
8/11/93	Review file; contact Board advisor	30 min.
9/13/93	Investigative contact	30 min.
9/23/93	Letter to South Dakota	1 hour

TOTAL HOURS

2 hours 00 min.

Total investigator expense for
two (2) hours and 00 minutes at \$18.00 per hour
(based upon average salary and benefits
for Division of Enforcement investigators) equals:

\$ 36.00

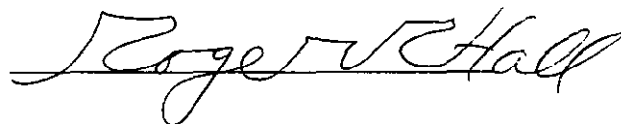
TOTAL ASSESSABLE COSTS

\$ 163.50



Steven M. Gløe

Subscribed and sworn to before me this 30 day of November, 1993.



Notary Public

My commission is permanent.